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March 7, 2002

Joan Foster-Evans, Esquire  
Hearing Officer  
Department of Telecommunications & Energy  
Commonwealth of Massachusetts  
One South Station, Second Floor  
Boston, MA 02110

**Re: D.T.E. 01-34 – Intrastate Special Access Services Investigation**

Dear Ms. Cottrell:

This letter is in response to allegations made by Jay Gruber, counsel for AT&T Communications of New England, Inc., in an e-mail dated March 6, 2002, regarding the status of discovery replies filed by Verizon Massachusetts (“Verizon MA”) in the above proceeding.

First, Mr. Gruber contends that Verizon MA’s substitute reply to DTE 4-1, filed March 6, 2002, amends the Company’s earlier reply by correcting previously filed data. This is factually incorrect. A “substitute” reply does not mean “errata.” No data was corrected in the substitute attachments filed on March 6<sup>th</sup>; otherwise, they would have been filed as “errata attachments.” The substitute filing was simply made to label the attachments with appropriate cross-references, so that the Department (and other parties) could identify what prior replies were updated in each attachment to DTE 4-1 (*e.g.*, WCOM/ATT 1-6, WCOM/ATT 1-8, etc.). Verizon MA assumed this labeling would be helpful to the Department and the parties. Apparently, it only confused Mr. Gruber. Therefore, Mr. Gruber’s criticism of Verizon MA’s March 6<sup>th</sup> substitute filing is unfounded.

Second, Mr. Gruber criticizes the untimeliness of Verizon MA's discovery replies and, in some cases, the lack of available data. This ignores the fact that Verizon MA has stated repeatedly throughout this proceeding that data requested for special access services is not tracked on a Massachusetts-specific basis in the normal course of business and, in some cases, is not tracked at all. As a result, Verizon MA has utilized considerable resources to conduct special studies to identify that data in an attempt to be responsive to carrier and Department discovery requests. This has been a time-consuming and extremely burdensome work effort. Moreover, during the course of the discovery process, Verizon MA has been required to produce special services (retail) data that is not specifically part of the Department's special access services investigation, and is also not captured in the manner requested. Because of the extensive work involved and the broad scope of the numerous discovery requests, it is not feasible for Verizon MA to produce the data requested during the normal discovery intervals. To penalize Verizon MA for not having readily available, Massachusetts-specific, special access or special services data in a form compatible with a competitor's discovery requests is unfair and unreasonable.

Third, regarding the outstanding replies, as I informed you early yesterday, two replies (DTE-4-17 and WCOM/ATT-4-17) were being filed on March 6. I later informed you that another reply (DTE 4-24) would be filed on March 7; and the remaining updates to DTE 4-1 would be filed on or before March 8. In response to DTE-4-24, which is being filed today - and which Mr. Gruber alleges is three months overdue, some data is not tracked and is not available. This timeframe is consistent with the response period established in the Hearing Officer Ruling regarding Verizon MA's Request for Extension, which I received today.

That Ruling also determined that because of Verizon MA's discovery delay, the filing of parties' surrebuttal testimony would be extended from March 13<sup>th</sup> to March 20<sup>th</sup>. This exceeds the extension requested by AT&T in its opposition. In that pleading, AT&T requested an additional five business days from the date of receipt of Verizon MA's replies. Thus, if Verizon MA's replies were filed on March 13<sup>th</sup>, AT&T sought an extension to file surrebuttal testimony on March 20<sup>th</sup>. Based on the March 8<sup>th</sup> date established by the Department for the filing of Verizon MA's replies, the surrebuttal filing date should be March 15<sup>th</sup> per AT&T's request.

As a result of the Hearing Officer's Ruling, the interval between the beginning of hearings on March 25<sup>th</sup> and Verizon MA's (and other parties') receipt of AT&T's surrebuttal testimony on March 20<sup>th</sup> is reduced to just *two* business days. A result which penalizes the Company is unreasonable, particularly since only *one* WCOM/AT&T response was late-filed (*i.e.*, WCOM/AT&T 4-17, filed March 6<sup>th</sup>). Allowing Verizon MA only two business days to review *new* surrebuttal testimony by its competitors - and providing no opportunity for discovery<sup>1</sup> - severely and unreasonably prejudices Verizon MA in this proceeding.

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<sup>1</sup> The Department made no change to its deadline of March 20 for the filing of discovery replies. This, essentially forecloses Verizon MA - and any other party - from issuing discovery requests on surrebuttal testimony.

Letter to J. F. Evans

March 7, 2002

Page 3

The Company hereby requests a modification of the current schedule for hearing. Verizon MA believes that there is no need to reserve three days for hearings in this proceeding schedule, and proposes that a one-day hearing be held on Wednesday, March 27. This is a more reasonable time estimate and will provide necessary time for Verizon MA - and indeed all parties - to review the surrebuttal testimony submitted on March 20<sup>th</sup>.

Thank you for your assistance in this matter.

Very truly yours,

Barbara Anne Sousa

cc: Mary L. Cottrell, Secretary  
Michael Isenberg, Esquire, Director – Telecommunications Division  
Attached Service List